

E. Stephen Derby, U.S. BANKRUPTCY JUDGE

## PROCEEDING MEMO - ADVERSARY PROCEEDINGS

Date: 01/12/2004 Time: 10:00

03-05974 Miller et al v. Miller et al

Related: 03-80504-ESD Charles J. Miller, Inc. Ch11

Donna S. Mangold representing Donald E. Miller (Plaintiff)

Donna S. Mangold representing Triple M., LLC (Plaintiff)

Donna S. Mangold representing Charles J. Miller Realty, Inc. (Plaintiff)

Donna S. Mangold representing Miller Bros. Leasing, LLP (Plaintiff)

(no aty) representing Charles Miller Jr. (Defendant)

(no aty) representing Venable, LLP (Defendant)

(no aty) representing James L. Shea (Defendant)

Robert B. Green representing Anthony V. DiFerdinando II (Defendant)

(no aty) representing Jacobs Ridge LLC (Defendant)

[3] Emergency Motion for Preliminary Injunction Filed by Charles J. Miller Realty, Inc., Donald E. Miller, Miller Bros. Leasing, LLP, Triple M., LLC.

Movant: Charles J. Miller Realty, Inc. Donald Miller Triple M., LLC Miller Br

[1] 498 (Other Action): Notice of Removal by Defendants Anthony V. DiFerdinando II, Charles Miller Jr., Venable, LLP, James L. Shea, Jacobs Ridge LLC Donald E. Miller against Plaintiff's Triple M., LLC, Charles J. Miller Realty, Inc., Miller Bros. Leasing, LLP. Receipt Number 40040152, Fee Amount \$150. (Attachments: # (1) Attachments# (2) Attachments)

Movant: Charles J. Miller Realty, Inc. Donald Miller Triple M., LLC Miller Br

## SCHEDULE:

1. Discovery cutoff:	6. Pretrial memos/exhibits:
2. Dispositive motions:	7. Trial times est: _____ days _____ hrs
3. Status report due:	8. Trial date: _____ time: _____
4. Motions hrg. date:	9. Expert witness & Rpts:
5. Final pretrial hrg:	10. Reissue Summons:

DISPOSITION:

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Granted \_\_\_\_\_ Denied \_\_\_\_\_ Withdrawn \_\_\_\_\_ Default \_\_\_\_\_ Consent \_\_\_\_\_ Under Adv. \_\_\_\_\_  
Adjourned / Continued to: \_\_\_\_\_ at \_\_\_\_\_ m. Notice: YES / NO

FINAL DISPOSITION:

Judgment for Plaintiff(s) \_\_\_\_\_  
Judgment for Defendant(s) \_\_\_\_\_  
Consent \_\_\_\_\_  
Amount: \$ \_\_\_\_\_ Withdrawn/ Dismissed/ Deny  
for want of Prosecution \_\_\_\_\_  
Day Settlement Order \_\_\_\_\_  
Decision Reserved \_\_\_\_\_  
Default / No Response \_\_\_\_\_  
Show Cause Order \_\_\_\_\_ Moot \_\_\_\_\_  
Adjourned / Continued to: \_\_\_\_\_ at \_\_\_\_\_ m. Notice: YES / NO  
Post Trial Memos Due: Plaintiff: \_\_\_\_\_ Defendant: \_\_\_\_\_

NOTES:

Court abstained and remand case to  
Carroll County sua sponte under 28

USC § 1334(c).

~~Defendants~~ Plaintiffs announced their intention  
to move for the remand based on mandatory  
abstention under (c)(2), and court agreed it would  
be justified. ~~It's~~ Also likely under (c)(1)

Action involves non-debtor parties on both sides.  
Debtors' property not involved, only that of subsidiaries.

Mr. Coots requested to submit an order.

→ Stipulation by Ven. Llo disposes of merits as to it:  
"Ven. Llo is not representing <sup>any</sup> of the entities, it has no  
intention of representing them or to be paid fees by  
them" (per Graham)

**SIGN IN SHEET****\*\*\* PLEASE PRINT \*\*\***IN RE: 03-8-0504 CHARLES J. MILLER, INC.**COUNSEL NAME****CLIENT** James C. Olson

Creditors' Committee

 PALE COOTER

DONALD MILLER

 DONNA MANGOLD

"

 NELSON DECKELBAUM

"

 DAVID RICE

ANTHONY DIFERDIMENTO

 Andrew Garrison

ANTHONY DIFERDIMENTO

 JAMES VITMERCJMILLER INC  
Roberts Miller Asphalt Patrick Pike

St. Paul.

 Michael Collins

Chas. Miller Jr. (et al.)

 L. Yonkcas

Merc. S D &amp; T Co.

 A. Graham

Venable

 Robert B. Green

DiFernando

Venable LLP's counsel requests preliminary injunction hearing  
at end

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January 8, 2004

**BY HAND DELIVERY**

The Honorable E. Stephen Derby  
United States Bankruptcy Court  
for the District of Maryland  
101 West Lombard Street  
Baltimore, Maryland 21201

RE: *Miller, et al. v. Miller, et al.*  
Adversary No. 03-5974-SD

Dear Judge Derby:

This firm represents Venable, LLP, one of the defendants in the above-referenced adversary proceeding. This matter was recently removed to this Court from the Circuit Court for Carroll County. We understand that, at the upcoming hearing on January 12, 2004 at 10:00 a.m., Your Honor will hear argument on Plaintiffs' Emergency Motion for Preliminary Injunction.

On the morning of January 12, 2004, I am scheduled to appear for an oral argument in the Court of Special Appeals of Maryland. That morning, coincidentally, my partner, David Shuster (who is also representing Venable in this matter) is scheduled to appear for an oral argument before the same panel of judges in the Court of Special Appeals in a different matter. After coordinating with the clerk's office at the Court of Special Appeals, my oral argument will proceed first, at 9:30 a.m., and Mr. Shuster's argument will proceed second. As soon as our respective oral arguments conclude, each of us will drive back to Baltimore for the hearing in this case. I anticipate that one or both of us will be back in Baltimore between 11:00 a.m. and 11:30 a.m.

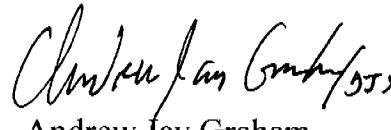
AKD 1-8-04  
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The Honorable E. Stephen Derby  
January 8, 2004  
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In light of the above scheduling conflict, all attorneys of record in this adversary proceeding consent, subject to Your Honor's approval, to placing the emergency motion at the end of the Court's Monday docket. It is my understanding that the full day has been set aside for the hearing. If either Mr. Shuster or I have any problem returning to Baltimore before 11:30 a.m., one of us will call Your Honor's chambers, but I do not anticipate that will be necessary.

Please let me or Mr. Shuster know whether the Court has any objection to the foregoing request, and I will be happy to communicate the Court's response to the other attorneys. Thank you for your kind attention to this matter.

Very truly yours,



Andrew Jay Graham

AJG:hsm

cc: James A. Vidmar, Jr., Esquire (via facsimile and first-class mail)  
G. Stewart Webb, Jr., Esquire (by hand delivery)  
Dale A. Cooter, Esquire (via facsimile and first-class mail)  
Donna S. Mangold, Esquire (via facsimile and first-class mail)  
Michael S. Libowitz, Esquire (by hand delivery)  
Robert B. Green, Esquire (via facsimile and first-class mail)  
Gary R. Greenblatt, Esquire (via facsimile and first-class mail)  
Mr. Booker Livingston (by hand delivery)